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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,465	09/26/2003	Richard Gribbons	P1555	9317

28390 7590 11/14/2006  
MEDTRONIC VASCULAR, INC.  
IP LEGAL DEPARTMENT  
3576 UNOCAL PLACE  
SANTA ROSA, CA 95403

EXAMINER

THANH, LOAN H

ART UNIT PAPER NUMBER

3763

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/670,465

Applicant(s)

GRIBBONS ET AL.

Examiner

LoAn H. Thanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,9,12-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/29/05,12/19/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Claims 3,5,9,12-33 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/31/06.

An action on the merits now follows.

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration believes the named inventor or ***inventors*** to be the original and first inventor or ***inventors*** of the subject matter which is claimed and for which a patent is sought.

Applicant has to clearly point out that they are the ***original, first and joint inventor*** and not the "sole" inventor.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral 824 is not in figure 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: R. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities: The drawings include the following reference character(s) not mentioned in the description: Reference numerals 802,804,806.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Preissman et al. (US 5,728,063).

Preissman et al. discloses a catheter having a proximal shaft having a guidewire (gw) and an inflation lumen and a distal shaft wherein the distal shaft has greater flexibility than the proximal shaft and a transition section having a spiral helix Which provides for gradual increase in flexibility in the transition section. The spiral helix are closer together 112 at the proximal end and farther apart at the distal end 114. Preissman et al. teaches the first reinforcement layer 112 is more stiff and shows the helical to more close together at the proximal end of the inner catheter than the second reinforcement layer 114. Preissman et al. further disclose the helical wound ribbon to

be made of stainless steel metal, a shape memory alloy (Nitinol ®, polymeric fibers or the like) . See figure 4, column 2, lines 53-col. 3, lines 47 and column 10, lines 35-62.

Claims 1-2,4,6,7 are rejected under 35 U.S.C. 102(b) as being anticipated by Keith (US 5,156,594).

Keith discloses a catheter having an proximal shaft having a guidewire lumen and an inflation lumen, a distal shaft , and a transition section 210 having proximal and distal ends and helical wound coil ( 212) can be either wire or ribbon and made of stainless steel and further disclosed by Keith in column 10, lines 60-64 that the coils can be increasingly space distally.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gharibadeh et al. (US 5,458,613).

Gharibadeh et al. discloses a catheter having a proximal, distal shaft and a transition section therebetween. The distal shaft is considered to be more simple in nature with less material compared to the proximal shaft and thus considered to be more flexible than the thicker and bulkier proximal section. Gharibadeh et al. further disclose element 42 which is more stiff at the proximal end compared to the distal end. See figure 7. The transition section is considered to comprise the element 42.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gharibadeh et al. (US 5,458,613) in view of Crittenden et al. (US 4,988,356).

Gharibadeh et al. disclose the invention as substantially claimed. See above.

Gharibadeh et al. shows a slit in the proximal shaft of the catheter for removal of the guidewire. (See figures 1-7 of Gharibadeh et al.). However, Gharibadeh et al. is silent to the slit being a cut extending in a radial direction between an exterior surface of the proximal shaft and the guidewire lumen. Crittenden et al. show a catheter having a longitudinal slit for removal of a guidewire which has a radial direction. See figure 2-5 of Crittenden et al. Crittenden discloses the slit 28 is defines as a pair of flaps 30 which extends in a tangential direction to define the enclosed guidewire lumen 26 . Further, Crittenden et al. teaches that the tangentially oriented slit has been found to provide a better seal and enables fluids at relatively low pressures to flow through the guidewire lumen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the slit of Gharibadeh et al. with the tangentially oriented slit as taught by Crittenden et al. in order to provide an improved and better sealed slit.

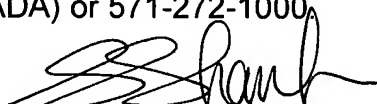
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (571) 272-4966. The examiner can normally be reached on Mon. - Fri. (First Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
LoAn H. Thanh  
Primary Examiner  
Art Unit 3763

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